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IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

WILLIAM G. OSBORNE,

Plaintiff,

vs.

DISTRICT ATTORNEY'S OFFICE FOR
THE THIRD JUDICIAL DISTRICT,
ANCHORAGE, ALASKA; SUSAN A.
PARKES, DISTRICT ATTORNEY, in her
official capacity; ANCHORAGE POLICE
DEPT., ANCHORAGE, ALASKA;
WALT MONEGAN, ANCHORAGE
POLICE DEPT.

Defendants.

Case No. A03-0118 CV

**PLAINTIFF'S NOTICE OF
ADDITIONAL AUTHORITY**

Plaintiff hereby gives notice of additional authority relevant to his summary judgment motion in the above-captioned matter.

On June 12, 2006, the Supreme Court handed down its decision in *House v. Bell*, 547 U.S. ____ (2006). In *House*, the Court held that certain evidence obtained post-conviction – primarily DNA tests that contradicted forensic evidence introduced by the state at trial – enabled petitioner Paul House to make the “stringent showing” necessary to proceed under the “actual innocence” rule of *Schlup v. Delo*, 513 U.S. 298, 319-322 (1995). Slip. Op. at 1, 20-22, 34. This decision is directly relevant to Mr. Osborne’s claim that he has a federal constitutional right to access forensic evidence used to convict

him at trial for the purpose of post-conviction DNA testing. As in *House*, DNA testing can be done in this case on “the central forensic proof connecting [Osborne] to the crime.” Slip. Op. at 34. Indeed, the semen evidence in Mr. Osborne’s case played a more direct role in the prosecution’s case, opening and closing arguments than the admittedly “oblique reference” in *House*. Compare Dissent of Roberts, C.J., Slip. Op. at 14-17. Even though exculpatory results may not provide a “conclusive exoneration,” Slip. Op. at 34, it is enough to create reasonable doubt in the mind of a reasonable juror and produce a more favorable verdict. *House* thus affirms the proposition that DNA testing that undermines the forensic basis of a conviction is uniquely compelling, and therefore a finding right of access to this evidence for the purpose of DNA testing is appropriate.

DATED this 12th day of June, 2006, at Anchorage, Alaska.

DORSEY & WHITNEY LLP
Co-Counsel for Plaintiff

By: /s/ Robert C. Bundy
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CERTIFICATE OF SERVICE

This certifies that on the 12th day of June, 2006, a copy of the foregoing document was on:

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by electronic means through the ECF system as indicated on the Notice of Electronic Filing, or if not confirmed by ECF, by first class regular mail.

/s/ Robert C. Bundy

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